

MINUTES OF THE MEETING OF
THE BOARD OF COSMETOLOGY, ELECTROLOGY, ESTHETICS,
NAIL TECHNOLOGY, AND BODY ART

February 6, 2017

1. ROLL CALL

The meeting of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art was called to order by the Chairperson, Becky Pettigrew, at 10:30 a.m., in Lower Level Conference Room B, Nebraska State Office Building, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Public Meeting Law.

The following members answered roll call:

Bridget Anderson	-	Member
Sandra Christie	-	Member
Vicki Criswell	-	Secretary
Lyra Faltys	-	Member
Melanie Judkins	-	Vice-Chair
Becky Pettigrew	-	Chair
Pam Rowland	-	Member
<u>Members Absent:</u>		
Ann Casement	-	Member (arrived 11:29 a.m.)
Gloria Harper	-	Member (arrived 10:40 a.m.)
David Newson	-	Member
<u>Others Present:</u>		
Ami Huff, Assistant Attorney General		
Dennis Scott, Investigator		
Kathie Krueger, Investigator		
Kris Chiles, Program Manager, Licensure Unit		
Nancy Herdman, Health Licensing Coordinator, Licensure Unit		

A quorum was present and the meeting convened.

2. ADOPTION OF AGENDA

MOTION: Faltys moved, seconded by Anderson, to adopt the agenda. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Pettigrew, Rowland (7). Voting nay: None (0). Absent: Casement, Harper, Newson (3). Motion carried.

3. APPROVAL OF MINUTES (1-9-17)

MOTION: Criswell moved, seconded by Rowland, to approve the minutes of 1-9-17. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Pettigrew, Rowland (7). Voting nay: None (0). Abstain: None (0). Absent: Casement, Harper, Newson (3). Motion carried.

4. INVESTIGATIONAL & CONFIDENTIAL INFORMATION/REPORTS – CLOSED SESSION

MOTION: Faltys moved, seconded by Anderson, to enter into closed session at 10:32 a.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Judkins, Pettigrew, Rowland (7). Voting nay: None (0). Absent: Casement, Harper, Newson (3). Motion carried.

10:40 a.m. - Harper entered meeting
10:45 a.m. - Scott and Krueger departed meeting

11:07 a.m. - Rowland departed meeting (conflict)
 11:12 a.m. - Rowland entered meeting

MOTION: Criswell moved, seconded by Christie, to return to open session at 11:12 a.m. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Absent: Casement, Newson (2). Motion carried.

5. APPLICATION REVIEW AND RECOMMENDATIONS – OPEN SESSION

a. Initial Licensure/Reinstatement/Convictions/Administrative Penalties

Dorothy Bressman - Cosmetologist

MOTION: Anderson moved, seconded by Faltys, to recommend offering a probationary license with a 6 month probation, to include the standard terms and conditions and the jurisprudence examination, based on not disclosing a conviction. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement, Newson (2). Motion carried.

Kelli Pekarek - Esthetician

MOTION: Anderson moved, seconded by Judkins, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement, Newson (2). Motion carried.

Jami Skrdlant - Cosmetologist

MOTION: Criswell moved, seconded by Judkins, to recommend offering a probationary license with a 6 month probation, to include the standard terms and conditions and the jurisprudence examination, based on not disclosing convictions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement, Newson (2). Motion carried.

Jasmine Nguyen – Nail Technologist Reinstatement

MOTION: Judkins moved, seconded by Rowland, to recommend offering a probationary license with a 6 month probation, to include the standard terms and conditions and the jurisprudence examination, based on not disclosing convictions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement, Newson (2). Motion carried.

Felicia DeSantiago-Matthews – Nail Technologist

MOTION: Anderson moved, seconded by Criswell, to recommend issuance of the license with no terms or conditions. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Harper, Judkins, Pettigrew (7). Voting nay: None (0). Abstain: Rowland (1). Absent: Casement, Newson (2). Motion carried.

Kola Crawford – Cosmetologist Reinstatement

MOTION: Criswell moved, seconded by Rowland, to recommend offering reinstatement with a 6 month probation, to include the standard terms and conditions and the jurisprudence examination, based on marking “no” to the question of practicing after her license expired and she practiced 12 days per the investigative report. A roll call vote was taken. Voting aye: Anderson, Christie, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Casement, Newson (2). Motion carried.

11:18 a.m. - Break
 11:29 a.m. - Meeting resumed
 Casement entered meeting
 Teresa Hampton, Department attorney, entered meeting

Moved to agenda item 6b.

6. NEW BUSINESS/PROFESSION UPDATES

b. Profession Updates: Body Art, Cosmetology, Electrology, Esthetics, Nail Technology, Indoor Tanning Facilities

Body Art – There was nothing to report.

Cosmetology – Chiles reported that as part of process improvement, the process for reviewing cosmetology application was reviewed. She commented that applications come in missing documents or sections of the application are not complete and further, there have been a few instances where individuals have been able to take the examination without Department authorization. Chiles stated a revised application was developed which provides step by step application processing instructions and simplified language. This application will be placed on the web. Chiles will be seeking feedback from schools on how the application is working. Chiles also plans to meet with students prior to graduation to discuss the application process and answer any questions.

Chiles stated she received information from NIC regarding a Uniform Practice Act and Infection Control Best Practices and NIC is asking states to use similar language. It was agreed this would be put on the March agenda.

Electrology – There was nothing to report.

Esthetics – There was nothing to report.

Nail Technology – Rowland stated the manicuring/pedicuring proposal had not been picked up by any Senator.

Indoor Tanning – Pettigrew reported the FDA announced that disposable eye protection could only be used once. Pettigrew commented that in the Indoor Tanning Association's Executive Director Report that there was optimism regarding lack of activity by the FDA and they were encouraged with Trump.

7. UPDATES/REPORTS/STATISTICS

a. National-Interstate Council of State Boards of Cosmetology

There was no other information to report.

b. Disciplinary/Non-Disciplinary Action Report

Chiles distributed the report for the period beginning January 1, 2017.

c. Statistics: Examinations / Renewal / Licensing / Administrative Penalties

Chiles stated 69 cosmetology renewal audits were sent out today.

Chiles reported the following active license statistics:

Licensure Numbers:

Cosmetologist	7882
Cosmetology Instructor	148
Cosmetology Salon	2130
Cosmetology Salon Consideration Certificate	16
Electrologist	17
Esthetician	755
Esthetician Instructor	18
Esthetics Salon	58
Esthetics Salon Consideration Certificate	2
Home Service Permit	3

Satellite Classroom	1
School of Cosmetology	16
Temporary Cosmetology Practitioner	12
Temporary Esthetician Practitioner	2
Body Art Facility	163
Body Brander	2
Body Piercer	94
Permanent Color Technician	60
Tattoo Artist	343
Nail Technician	1265
Nail Technology Home Service Permit	1
Nail Technology Instructor	13
Nail Technology Salons	191
Nail Technology Salon Consideration Cert.	3
Nail Technology Schools	6

Noon - public individual entered room

Chiles introduced Otis Matlock, an applicant for cosmetology license reinstatement, who asked to speak to the Board. Matlock discussed his felony conviction which he did not report on his reinstatement application. He stated he found a gun and turned it in and was later convicted for it. He stated that was the justice way because he previously had a felony. He told the Board they did not understand and he would not accept a probationary license.

12:10 p.m. - Matlock departed meeting
Break
12:25 p.m. - Meeting resumed
2 public persons entered meeting

Moved back to agenda item 6.

6. NEW BUSINESS/PROFESSION UPDATES

a. 2017 Legislative Session

- **Manicuring/Pedicuring Proposal**

This was previously addressed in the agenda

- **Legislative Bill Review Discussion (LB 36, 88, 299, 588, others)**

The two public persons present spoke. They stated they were cosmetologists who had been in the field for many years. They commented the field had changed over the years and it was important to always be learning. They both expressed concerns about the legislative bill proposing to lower cosmetology education hours. They indicated that all the hours were needed to obtain experience under an instructor who knows what they are doing. The comment was made that education was key. One commented that their first year out of school they learned a lot because at that time they had to work under another cosmetologist. Pettigrew asked what was different now from in the past. The response was that products are stronger and not as many permanents are done.

LB 343 - Chiles summarized the bill:

- Remove guest artist and cosmetician registrations.
- Revise language relating to transfer students
- Remove language relating to student classifications
- Remove language that prohibits customers from consuming alcohol in the salon

- For cosmetology, change education hours to 1500 (currently 2100) and remove credits.
- For esthetics and electrology, retain 600 education hours but remove credits.
- For cosmetology instructor, change education hours to 600 (currently 925) and add another option of 350 education hours beyond the cosmetology license education requirements and 2 years of experience as a cosmetologist.
- For esthetics instructor, add another option of current esthetician license and 2 years of experience as an esthetician (currently is 300 hours of education).
- For nail technology, change education to not more than 200 hours (currently 300).
- For nail technology instructor, changed education to not more than 200 hours (currently 300)

Casement stated she was offended that individuals think you can produce a good cosmetologist when you reduce the hours which will reduce foundational skill time. Chiles stated that there was a study that showed 34 out of 50 states have 1500 hours or less. She stated it could be questioned why Nebraska needs 2100 hours. Faltys stated there is an organization called Nebraska Cosmetologists United that is responding to this bill.

There was a discussion about cosmetology instructor hours and the difference in the number of hours among cosmetology, esthetics and nail technology instructor hours. Both Criswell and Rowland commented that esthetics and nail technology instructor education use the same instructor book and take the same examination as cosmetology instructors but cosmetology instructors require more hours. They stated they believed the education for instructors should be the same for cosmetology, esthetics and nail technology but Casement disagreed.

After much discussion, the Board opposed the recommendation to lower the cosmetology hours. Some members were somewhat agreeable with the reduction in the cosmetology instructor hours. The Board opposed adding the additional option for experience and less instructor hours for a cosmetology instructor and no instructor hours for an esthetic instructor. For nail technology, the Board supported keeping the hours as the same.

1:45 p.m.	-	Harper departed meeting
1:51 p.m.	-	Harper entered meeting
2:05 p.m.	-	Christie departed meeting

Judkins suggested the Board write a letter and have a member read it at the hearing. Rowland commented that Senators will ask questions so the person needed to be prepared. Rowland volunteered to write some questions that Senators might ask to help in preparation. Chiles commented that facts and documentation would be important. Casement volunteered to read the letter at the public hearing which is March 1, 2017.

2:09 p.m.	-	Harper departed meeting
2:12 p.m.	-	2 public persons departed meeting
2:18 p.m.	-	Harper entered meeting
2:22 p.m.	-	Pettigrew departed meeting
2:25 p.m.	-	Pettigrew entered meeting

The following agreed to draft portions of the letter and forward their parts to Chiles who will send the information out to the members:

Nail Technology – Rowland and Pettigrew
 Esthetics – Criswell
 Cosmetology – Faltys
 Public person position – Anderson

The members agreed to a conference call on 2-17-17 at 8:30 a.m. to review and approve the Board position letter.

Chiles presented information on other bills that may be of interest.

LB 312 and LB 563 – Both bills address sales tax on personal care services. The Board took no position.

LB 36 – Requires DHHS every 5 years to review all regulations and rules and explain how they are cost effective and not limiting commerce.

LB 88 – Military spouses can get a temporary credential upon submitting an application and meeting requirements.

LB 299 – Creates a rules and regulation occupational board to review regulations. Hampton commented this was another layer of review. Also bill allows individuals with a conviction history to petition a board prior to making application for a decision as to whether their conviction history will prevent them from obtaining a license.

LB 588 – Creates an exemption in the Massage Therapy Practice Act that allows anyone to do reflexology. It does not define reflexology.

3:04 P.M. - Faltys departed meeting

MOTION: Anderson moved, seconded by Rowland, to enter into closed session at 3:04 p.m. for the purpose of hearing discussions of a confidential nature and for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Anderson, Casement, Criswell, Harper, Judkins, Pettigrew, Rowland (7). Voting nay: None (0). Absent: Christie, Faltys, Newson (3). Motion carried.

3:07 p.m. - Faltys entered meeting

MOTION: Faltys moved, seconded by Criswell, to return to open session at 3:11 p.m. A roll call vote was taken. Voting aye: Anderson, Casement, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Absent: Christie, Newson (2). Motion carried.

Otis Matlock – Cosmetologist Reinstatement

MOTION: Anderson moved, seconded by Judkins, to recommend offering a reinstated license with a 6 month probation, to include the standard terms and conditions and the jurisprudence examination, based on not disclosing a conviction. A roll call vote was taken. Voting aye: Anderson, Casement, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Christie, Newson (2). Motion carried.

8. ADJOURNMENT

MOTION: Anderson moved, seconded by Rowland, to adjourn. A roll call vote was taken. Voting aye: Anderson, Casement, Criswell, Faltys, Harper, Judkins, Pettigrew, Rowland (8). Voting nay: None (0). Abstain: None (0). Absent: Christie, Newson (2). Motion carried.

Pettigrew declared the meeting adjourned at 3:13 p.m.

Respectfully submitted,

Vicki Criswell, Secretary
Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art

Summarized by Nancy Herdman, Health Licensing Coordinator